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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,858	03/12/2004	Marten C. Rhead	TAPEMEAS.IDC	6700

7590 08/31/2005
R. F. Gallagher
7420 Milner Dr.. #1000
Colorado Springs, CO 80920

EXAMINER

SMITH, RICHARD A

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/798,858

Applicant(s)

RHEAD, MARTEN C.

Examiner

R. Alexander Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-8 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4,516,325 to Cohen et al. in view of U.S. 5,402,583 to Komura and JP 6147802 A to Uchiyama.

Cohen discloses a tape measure having a coiled tape in a housing and a tape hook external on an unattached end portion of the tape, and measurement lines and numerals on a concave side portion of the tape which are incremented from the hook and can be read when the hook is pulled from the housing (figure 1), a light and light emitting diode positioned to illuminate the tape (60), a tape brake and a light switch which is positioned to work in conjunction with the brake (figure 4), the light switch comprises a slide button positioned in the vicinity of the tape brake.

With respect to claim 7, button wall 54 is centrally located on the backside of the sliding brake (figures 7A and 7B) which activates the contacts 70 to the light when the brake is slid on

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and which deactivates the contacts when the brake is slid off. In a broad sense, this appears to the examiner as meeting the limitations as claimed.

Cohen does not disclose said tape measure having a non slip means positioned along an outer face portion of the hook and said non slip means comprising a roughened surface having a multiplicity of rough points.

Komura discloses an endhook having a non slip means comprising a roughened surface having a multiplicity of rough points (figure 3 and 4d). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the endhook, taught by Cohen, to include a roughened surface on the inside surface, as taught by Komura, in order to hold the hook in place along a hooked surface.

Uchiyama discloses that a non-slip surface can be applied to both the inner and outer surfaces of an endhook. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the endhook, taught by Cohen and Komura, to include a roughened surface on the outer surface, as taught by Uchiyama, in order to provide a non-slip outer surface so the hook will not slid when in an abutting position to a surface.

With respect to the limitations of claim 8, i.e., a focused light positioned to illuminate the measured length on the tape so that the exact measured length on the tape is indicated by the focused light and the problem of parallax is largely avoided: It appears to the examiner that a broad interpretation of Cohen meets the limitations as claimed. Cohen's LED focuses the light to illuminate the entire section of the tape including the exact measured length thereby meeting the limitation of a comprising claim which includes the exact measured length being illuminated.

With respect to the parallax, this is met by the better illumination of the tape and of the general

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surface so that the user can better observe what length matches the point of the surface much more so then when the tape and the surface are dimly lit. Therefore, it appears to the examiner that in a broad sense the limitations of claim 8 is met.

With respect to claims 15-18: the method steps will be met during the normal operation of the tape measure disclosed by Cohen as modified by Komura and Uchiyama.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al., Komura and Uchiyama as applied to claims 1, 2, 4-8 and 15-18 above, and further in view of U.S. 14,947 to Ballou.

Cohen et al., Komura and Uchiyama together teach all that is claimed as discussed in the above rejections of claims 1, 2, 4-8 and 15-18 except for said non slip means comprising a pointed barb

Ballou discloses a end hook attachment wherein the outside includes a barb (barb 7 as used in figure 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the outside of the end hook, taught by Cohen, Komura and Uchiyama, to include a pointed barb as a non-slip means, as taught by Ballou, in order to provide a barb large and sharp enough to tack the endhook into a surface to prevent slipping on or along said surface.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al., Komura and Uchiyama as applied to claims 1, 2, 4-8 and 15-18 above, and further in view of U.S. 2005/0150126 to Marshall et al.

Cohen et al., Komura and Uchiyama together teach all that is claimed as discussed in the above rejections of claims 1, 2, 4-8 and 15-18 except for the focused light comprises a laser.

Marshall et al. discloses a tape measure wherein a laser is used to illuminate a measured length on the tape (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the light, taught by Cohen et al., to be a laser, as taught by Marshall et al., in order to highlight the exact measurement to be read.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al., Komura and Uchiyama as applied to claims 1, 2, 4-8 and 15-18 above, and further in view of JP 10,122,801 to Nagano et al.

Cohen et al., Komura and Uchiyama together teach all that is claimed as discussed in the above rejections of claims 1, 2, 4-8 and 15-18 except for the focused light comprises a laser.

Nagano et al. discloses a tape measure wherein a separate laser can be used to highlight a measurement on tape. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the light, taught by Cohen et al., to be a laser, as suggested by Nagano et al., in order to highlight the exact measurement to be read.

Response to Arguments

6. Applicant's remarks filed on June 23, 2005 are noted.

Allowable Subject Matter

7. Claim 10 would be allowable if rewritten to overcome the claim objections set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.
8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related tape measures.

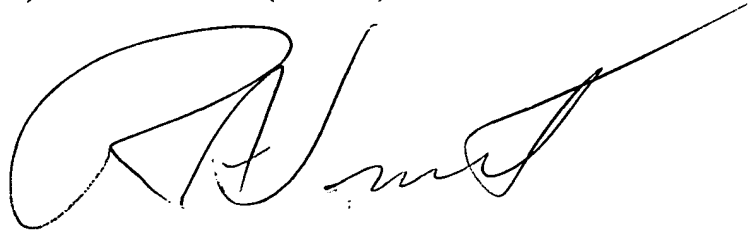
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251.

The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a long, sweeping horizontal stroke extending to the right.

R. Alexander Smith
Primary Examiner
Technology Center 2800

RAS
August 29, 2005